

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAYMOND M. MARTIN,

Defendant.

Case No. 09-cr-40037-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") (Doc. 189) of May 6, 2011, wherein it is recommended that the Court deny Defendant Raymond Martin's Notices (Docs. 181, 183 185) insofar as they request hearings on post-judgment execution and appointment of counsel. Specifically, Magistrate Judge Frazier believes that Martin's failure to claim a specific property exemption nullifies his request for a hearing under 28 U.S.C. § 3014(b)(2). Additionally, Magistrate Judge Frazier suggests that the notices' untimeliness warrants denial of the requests for a hearing and attorney therein.

After reviewing a report and recommendation, the Court may accept, reject, or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court must review *de novo* the portions of the report to which objections are made. The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* "If no objection or only partial objection is made, the district court judge

reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Here, neither party has filed an objection to Magistrate Judge Frazier’s R & R. Subsequently, the Court has reviewed the R & R for clear error and finds that it is not clearly erroneous. While Judge Frazier could have considered appointing counsel so that an attorney could claim any applicable property exemption(s), this is not required under 28 U.S.C. § 3014, *see Connell v. United States*, 69 F. App’x 867, 869 (9th Cir. 2003), especially when one considers the untimely filing of Martin’s notices.

Being fully advised of the premises, the Court **ADOPTS** the R & R (Doc. 189) in its entirety, whereby the Court **DENIES** Martin’s (Docs. 181, 183 185) insofar as they request hearings on post-judgment execution and appointment of counsel

IT IS SO ORDERED
DATED: June 6, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE